

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA

In Re	)	
	)	
<b>PROCEDURES IN AID OF</b>	)	<b>STANDING ORDER</b>
<b>THE ADMINISTRATION OF</b>	)	<b>SETTING PROCEDURES TO BE</b>
<b>CHAPTER 13 CASES</b>	)	<b>FOLLOWED IN CHAPTER 13 CASES</b>
	)	<b>FILED ON OR AFTER</b>
	)	<b>OCTOBER 17, 2005</b>

Having concluded that the following new or revised procedures are needed in order to implement the provisions of the United States Bankruptcy Code as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Pub. L 109-8), it is hereby ORDERED as follows with respect to Chapter 13 cases filed on or after October 17, 2005:

**A. PRE-CONFIRMATION ADEQUATE PROTECTION PAYMENTS.** All adequate protection payments required by 11 U.S.C. Section 1326(a)(1) shall be paid as follows:

1. Not later than 30 days after the date of the order for relief, the debtor shall commence paying directly to the lessor all payments scheduled in a lease of personal property or portion thereof that become due after the order for relief. Absent a timely objection to confirmation of the proposed plan, the debtor shall be presumed to have made such payments as required by 11 U.S.C. Section 1326(a).

2. The debtor shall provide in the Chapter 13 plan that Section 1326(a)(1)(C) pre-confirmation adequate protection payments to a creditor holding an allowed claim secured by personal property to the extent that the claim is attributable to the purchase of such property by the debtor shall be disbursed by the Chapter 13 trustee, unless the Court orders otherwise.

3. The debtor shall list in the Chapter 13 plan the name, address, last four digits of the account number, and the amount of the adequate protection payment proposed for each secured creditor entitled to receive a Section 1326(a)(1)(C) pre-confirmation adequate protection payment.

4. All adequate protection payments paid through the Chapter 13 trustee shall be subject to an administrative fee in favor of the trustee equal to the trustee's statutory percentage commission then in effect, and the trustee shall collect such fee at the time of the distribution of the adequate protection payment to the claimant.

5. No adequate protection payment to a creditor who is listed in the plan as a secured creditor shall be required until a proof of claim is filed by such creditor which complies with Rule 3001 of the Federal Rules of Bankruptcy Procedure.

6. The trustee shall not be required to make pre-confirmation adequate protection payments on account of any claim in which the collateral for such claim is listed in the plan as having a value of less than \$2,000.00.

7. Adequate protection payments which are made through the Chapter 13 trustee shall be made in the ordinary course of the trustee's business, according to the trustee's standard monthly distribution schedule, from funds in the case as they become available for distribution to claimants.

8. If a Chapter 13 case is dismissed or converted to another chapter prior to confirmation, the Chapter 13 trustee shall make the pre-confirmation adequate protection payments proposed in the plan or as modified pursuant to Section 1326(a)(3), from any funds that were received on or before the date of the entry of the order of dismissal or conversion, provided that the creditors to receive such payments have filed a proof of claim that complies with Rule 3001 of the Federal Rules of Bankruptcy Procedure and has not been objected to by the debtor or the Chapter 13 trustee.

**B. DEBTOR COMPLIANCE WITH CERTAIN FILING REQUIREMENTS OF SECTION 521.** The debtor shall be required to file or produce the documents described in 11 U.S.C. Section 521(a)(1)(B)(iv) only if requested in writing to do so by the Bankruptcy Administrator, the trustee or a party in interest. If such a request is made, the requested documents shall be delivered to the party making the request within ten (10) days, but are not required to be filed with the Court. If the debtor does not comply with the written request within ten (10) days the requesting party may file a motion for dismissal of the Chapter 13 case.

**C. DEBTOR CERTIFICATION AT MEETING OF CREDITORS.** At the Section 341 meeting of creditors, each debtor shall execute under penalty of perjury a written certification concerning the following:

1. Whether the debtor is current on payment of all post-petition domestic support obligations as required by 11 U.S.C. Section 1325(a)(8);

2. Whether the debtor has complied with the tax return filing requirements of 11 U.S.C. Section 1308(a); and

3. Certifying that debtor's statement of his or her average income for the six month period before the month in which the petition was filed is consistent with the amount of income reflected on the payment advices or other evidence of payment received by the debtor from any employer of the debtor within 60 days before the petition date.

**D. PRESUMPTIVE FEE IN CHAPTER 13 CASES.** The Order Regarding Attorneys' Fees which was entered on August 31, 2004 is hereby amended to increase the presumptive fee in Chapter 13 cases that are filed electronically from \$1,500.00 to \$2,500.00. Except for this amendment, the Order Regarding Attorneys' Fees that was entered on August 31, 2004 shall continue in full force and effect.

**E. PROTECTION OF TAX INFORMATION.** Federal tax returns filed with the court by debtors in Chapter 13 cases shall be subject to the restrictions and procedures for safeguarding the confidentiality of tax information established by the Director of the Administrative Office of the United States Courts pursuant to § 315(c)(1) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, except that the procedures for requesting and obtaining access to tax information contained in the procedures for safeguarding the confidentiality of tax information established by the Director of the Administrative Office of the United States shall not apply to the Bankruptcy Administrator or to the trustee serving in the case.

**F. DISCLOSURE OF VALUATION METHOD.** If a value is stated for property listed in a schedule of Official Form 6 (Schedules A through J), the method of valuation used shall be stated in such schedule.

Dated this the 24<sup>th</sup> day of October, 2005.

William L. Stocks

William L. Stocks  
Bankruptcy Judge

Catharine R. Carruthers

Catharine R. Carruthers  
Bankruptcy Judge

Thomas W. Waldrep, Jr.

Thomas W. Waldrep, Jr.  
Bankruptcy Judge